

Concubinage, Clandestine Marriage, and Gender in the Visitation Records of Fourteenth-Century Catalonia

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IN THE DEAD OF WINTER IN the year 1313, the canon Galceran Sacosta arrived in the village of Puigcerdà, located on the Pyrenean border between what is now Catalonia and France. Since leaving the cathedral city of Urgell in December, Galceran had spent two months traveling through dangerous mountain passes and bitter cold to remote parishes situated in the most northern region of the diocese of Urgell. On a number of occasions, the visitor found he could not conduct an inquiry into parish life since no one was present in the village to interrogate, a sign of the pastoral life of these people, who were out tending their flocks of sheep. For the most part, however, the visitor was able to find a few villagers, who likely huddled against the cold in the parish church, to answer his questions concerning the moral behavior of the clergy and laity. In Puigcerdà, a relatively large village by Pyrenean standards, parishioners reported to the visitor that thirteen unmarried couples, including a miller, baker, and pelterer, were engaging in concubinage. In addition, six married men kept concubines, and four other villagers refused to cohabit with their spouses.¹ These accounts of illicit sex and marital separation among villagers and peasants were not unusual, since people throughout the dioceses of Catalonia reported to the episcopal visitor that couples in their parishes practiced concubinage.

The prevalence of informal unions among the laity and clergy in the isolated and mountainous parishes of the Pyrenees, moreover, was not unique to this setting. Along the coast and to the south of Barcelona and north of Valencia lies the diocese of Tortosa. During the same winter

¹ Arxiu Capitular de Vic (AEV), Calaix 31/43, Visites, no. 1, 50r–51r (1313). Galceran de Sacosta spent December, January, and the first half of the month of February traveling along the Pyrenean border region before heading south during the months of March and April to visit parishes around Berga, Solsona, and Cardona.

months of the year 1314, the bishop Francesc Paholac conducted visitations throughout his diocese and found that the practices of concubinage and marriage desertion were commonplace among the laity. Couples like Pericó Vilalbino and Boneta in the cathedral city of Tortosa lived together for many years and had two children without legitimizing their union. In a large settlement like Morella, seventeen unmarried lay couples and five priests and their single partners engaged in concubinage. Although many of these couples were Christian, the layman Pere Çamosa was fined a hefty sum for keeping a Saracen woman and their son in a nearby village.²

Whether in the mountains or foothills of the Pyrenees, the large plain of Vic between the Pyrenees and Barcelona, or the coastal plains of the Mediterranean that extend to the mountains of the Maestrazgo down to Valencia, people living in villages small and large bypassed the laws of the church on marriage and the social mores of the upper class to define for themselves the kinds of sexual relationships that worked best for their social and economic situations. Concubinage looms large as a lived experience for both men and women, especially for people at the lowest levels of society, since more than half of the estimated five hundred thousand preplague (1348) population in Catalonia was peasant.³ In the premodern period, concubinage is usually associated with upper-class men who kept lower-status women. Elite concubinage has received far more attention due to the numerous studies on royal lineages and the nobility, but the concubinous unions between two people of low status has left less information in the records and thus has been little studied.⁴ Fourteenth-century episcopal visitation records from the dioceses of Barcelona, Girona, Tortosa, Urgell, and Vic in the Crown of Aragon offer a unique opportunity to study the concubinous relationships of non-elites, and when compared to other parts of Europe, this case suggests that many among the laity in Catalonia chose informal marriages rather than a legitimate and canonically binding marriage. These sources reveal that peasants and villagers used concubinage not only as an alternative to marriage when poverty rendered the formation of

² Maria Theresa García Egea, *La visita pastoral a la diócesis de Tortosa del obispo Paholac, 1314* (Diputació de Castelló, 1993), 106, 149–59.

³ See Thomas N. Bisson, *The Medieval Crown of Aragon* (Oxford: Clarendon Press, 1991), 163–64. Reliable figures for the population of Catalonia in both rural and urban areas do not exist prior to 1360. The first census for tax-gathering purposes in the Crown of Aragon counted the hearths (*fochs*) in each parish and was undertaken in 1360, which means that even this source represents the number of families and not individuals. See Pere Orti Gost, “Una primera aproximació als fogatges Catalans de la dècada de 1360,” *Anuario de Estudios Medievales* 29 (1999): 747–73; Gaspar Feliu, “La demographia baixmedieval Catalana: Estat de la qüestió i propostes de futur,” *Revista d’Història Medieval* 10 (1999): 13–44.

⁴ For works that address elite concubinage in medieval society, see Suzanne F. Wemple, *Women in Frankish Society: Marriage and the Cloister, 500–900* (Philadelphia: University of Pennsylvania Press, 1981); Ruth Mazo Karras, *Unmarriages: Women, Men, and Sexual Unions in the Middle Ages* (Philadelphia: University of Pennsylvania Press, 2012); Theresa Earenfight, *Queenship in Medieval Europe* (New York: Palgrave Macmillan, 2013), 79–119.

a legitimate and church-sanctioned union impossible but also as a trial run before committing to marriage with their current partner. The prevalence of informal unions, moreover, permitted women to exercise more agency in the choice of their sexual partner, as well as the kind of union they chose for themselves. What is perhaps most surprising is that some women entered into a concubinous union with one man before contracting marriage with another, indicating that the path that led women to concubinage did not preclude the possibility of marriage.

A concubinous union could also transition into a betrothed state where the cohabiting couple were almost married but stopped short of formalizing their relationship publicly at the church door. Although canon law defined the exchange of present consent as the foundation of a legitimate marriage,⁵ unions that bypassed the public betrothal, the reading of the banns, and the solemnization process were considered clandestine marriages. As Ruth Karras and Andrew Finch have pointed out, the overlap between concubinage and clandestine marriage could mean that couples wanted to keep their relationships more informal.⁶ In Catalonia, a significant number of couples purposefully chose to continue their relationships in an ambiguous state even though their union was not considered a fully valid marriage. In fact, the ambiguity in these relationships worked to the advantage of couples who wanted the ability to terminate their union in a culture where the medieval church did not permit divorce. Catalan episcopal authorities, in their visitations to parishes, used threats of fines and excommunication to try to compel couples who remained in a not quite married state to formalize their unions. The application of episcopal discipline, however, was very much gendered. Men were punished more severely than women. Ecclesiastical authorities placed the onus on men to exert male authority in their household and to bring respectability to their unions by contracting proper marriages. Despite the view of marriage as sacramental and indissoluble that had been imposed by the church since the twelfth century, the spectrum of marriage practice that existed in fourteenth-century Catalonia reveals that a significant portion of the population could not fully accept the church's model of marriage; they created permutations of marriage that allowed them far more flexibility to form and dissolve a union. These relationships were not only tolerated but also held a certain level of respectability among peasants and rural villagers in medieval society, and they were thus commonplace. Women, in particular, may have appreciated and even

⁵ Canon law made a distinction between present and future consent, where the future tense ("I will take you to be my husband/wife") was a betrothal, and the present tense ("I take you to be my husband/wife") made a proper marriage. See James Brundage, *Law, Sex, and Society in Medieval Europe* (Chicago: University of Chicago Press, 1987), 237, 264, 333.

⁶ Andrew Finch, "Sexual Morality and Canon Law: The Evidence of the Rochester Consistory Court," *Journal of Medieval History* 20 (1994): 273; Ruth Mazo Karras, "The Regulation of Sexuality in the Late Middle Ages: England and France," *Speculum* 86 (2011): 1025–27; and Karras, *Unmarriages*, 166.

preferred a concubinous union or informal marriage to the constraints of a legal marriage because it gave them the opportunity to terminate an undesirable union.

EPISCOPAL VISITATION RECORDS AND DEFINING
THE SEXUAL TRANSGRESSIONS OF THE LAITY

In the thirteenth century, two significant developments allowed the church to have unprecedented influence over the sexual lives of its people. The first was the requirement of yearly visitations. The pastoral reforms enacted in the Fourth Lateran Council of 1215 obliged bishops to inquire into the manner of living of both the clergy and the laity. A bishop or his official was expected to visit the parishes in his diocese to monitor the customs of the clergy and examine the moral failings of all Christians. These visitations were intended to correct transgressions, as well as to enforce the church's ideals concerning moral conduct, marriage practices, and sexual behavior of the clergy and laity. The second development involved important changes in canon law that created a new process for initiating criminal procedures, which authorized ecclesiastical officials to investigate crimes based on *fama* (reputation or common belief) and to accept anonymous complaints (*per denunciationem*). Church authorities were no longer constrained by the accusatory procedure that had required an accuser to make a public accusation in order for an offender to be brought to the bishop's court. As James Brundage has argued, these new procedural forms not only made it easier to prosecute and punish sexual offenses but also meant that the illicit sexual behaviors of the clergy and laity became the main business of the diocesan courts; these courts "had secured a major role in the enforcement of the laws governing sexual morality and handled substantial numbers of routine prosecutions for fornication, adultery, and other common sex offences."⁷

Due to the abundance of late medieval court records, scholars have focused almost exclusively on these records, while episcopal visitation records have been largely neglected as a source to study the sex practices of the medieval population. During the fourteenth century, the ecclesiastical courts in Catalonia had little interest in punishing sex crimes, but the wealth of visitation records for this region, which exceeds that of any other part of Europe during this period, demonstrates, in contrast to the courts, an interest in correcting this behavior.⁸ In fact, I believe that the

⁷ James A. Brundage, "Playing by the Rules: Sexual Behaviour and Legal Norms in Medieval Europe," in *Desire and Discipline: Sex and Sexuality in the Premodern West*, ed. Jacqueline Murray and Konrad Eisenbichler (Toronto: University of Toronto Press, 1996), 32; Brundage, *Law, Sex, and Society*, 409–12.

⁸ A total of twenty-seven visitation books (made up of multiple quires) exist for the dioceses of Girona, Barcelona, Vic, and Urgell for the period prior to 1350. Episcopal visitors in all four dioceses conducted a total of 3,876 visitations (excluding monasteries) to parish churches throughout Catalunya. After 1350, a total of eleven visitation books exist for these

bishops in Catalonia did not use their courts to target sex offenses because visitations to parishes could be employed just as effectively to discipline the laity and clergy. It is unlikely that the relative absence of sexual cases in episcopal courts had much to do with a poorly developed court system. The episcopal courts in Catalonia were fully functioning. The diocese of Girona's court dealt with 324 cases in the fourteenth century, but very few of these cases dealt with issues pertaining to illicit sex or marriage. While only fifty-five cases from this century are extant for the episcopal court in Vic, this scarcity is due to a serious fire that destroyed the majority of the records. Thirty-six cases survive from the fourteenth-century episcopal court in Barcelona, but the court handled nearly two thousand cases in the fifteenth century.⁹ These extant records show that the overwhelming number of cases that came before the ecclesiastical courts had to do with disputes over benefices and tithes, conflicts over the administration and jurisdiction of monasteries, and both clerical violence and brigandage. Sexual offenses were infrequently prosecuted in these fourteenth-century courts, and these cases deal almost exclusively with pugnacious clergymen who were charged with concubinage in addition to violent acts.¹⁰ Conversely, visitation records show that officials did make an attempt to investigate, if not police, sexual transgressions by excommunicating or fining offenders during visitations to parishes. For historians, the advantage of using parish visitations is that they more accurately reflect the practices of the largest population of a diocese—peasants and villagers—compared to court records,

Catalan dioceses. For the entire fourteenth century, thirty-eight visitation books are extant. Christian Guilleré provides an overview of episcopal visitation records for the ecclesiastical province of Tarragona in his article "Les visites pastorales en Tarraconaise à la fin de Moyen-Âge (XIV^e-XV^e s.): L'exemple du diocèse de Gérone," *Melanges de la Casa de Velázquez* 19 (1983): 125–67. The claim of exceptionalism for Catalunya's medieval visitation records has been made by Noël Coulet, *Les visites pastorales* (Turnhout: Brepols, 1985), 12; Lluís Monjas, Eugeni Perea, Joaquim M. Puigvert, and Xavier Solà, "Usos historiogràfics," in *Les visites pastorals: Dels orígens medievals a l'època contemporània*, ed. Joaquim M. Puigvert, Lluís Monjas, Xavier Solà, and Eugeni Perea (Girona: Diputació de Girona, 2003), 24–25; and Josep Baucells i Reig, *Vivir en la edad media: Barcelona y su entorno en los siglos XIII y XIV (1200–1344)* (Barcelona: Consejo Superior de Investigaciones Científicas, Institución Milá y Fontanals, Departamento de Estudios Medievales, 2006), 1:276–77. A comprehensive discussion and bibliography of visitation records throughout Europe can be found in Maria Milagros Cárcel Ortí and José Vicente Boscá Codina, *Visitas pastorales de Valencia, siglos XIV–XV* (Valencia: Facultad de Teología San Vicente Ferrer, 1996), 2–18.

⁹ Josep M. Marquès, "Processos anteriors al 1500 de l'Arxidiocesa de Girona," *Annals de l'Institut d'Estudis Gironins* 44 (2003): 145–77; Jaume Codina i Vilà and Josep Maria Martí Bonet, *Els processos dels segles XIV i XV* (Barcelona: Departament de Cultura de la Generalitat de Catalunya, 1984).

¹⁰ See Michelle Armstrong-Partida, *Defiant Priests: Domestic Unions, Violence, and Clerical Masculinity in Fourteenth-Century Catalunya* (Ithaca, NY: Cornell University Press, forthcoming); Eduard Sierra Valentí, "Processos per incontinència, concubinatge i abusos en l'Arxidiocesa de Girona," *Annals de l'Institut d'Estudis Gironins* 48 (2007): 83–124.

which disproportionately represent an urban demographic.¹¹ After all, only a very small minority of the medieval population throughout Europe ended up in court for their sexual misdeeds. Visitation records, then, can tell us far more about the personal relationships and lives of the general populace who never made it to court.

In the dioceses of Urgell and Vic alone, episcopal officials visited 1,437 parishes prior to 1350. Sixty-eight parishes were visited in the diocese of Barcelona in 1303, eighty-four parishes in the diocese of Tortosa were visited from 1314 to 1316, and seventy-nine visitations were carried out in the diocese of Girona in 1321. I include this sample of visitations from each diocese in the ecclesiastical province of Tarragona to underscore that the practice of concubinage was a widespread phenomenon throughout Catalonia. The high numbers of informal unions in the Tortosa visitations show that concubinage among the laity was not limited to the northern Pyrenean and most remote region of Catalonia.¹² Based on 1,609 visitation records in these five dioceses for the years 1303, 1312–16, 1321, and 1330–39, a total of 891 lay people were accused of engaging in a concubinous union. The dioceses of Vic and Tortosa show the largest numbers: 397 couples charged in 470 parishes, and 135 couples charged in 84 parishes, respectively. In the diocese of Urgell, only 185 couples in 948 parishes were reported to the visitor. Considering the lack of episcopal oversight due to the difficult terrain and remote nature of the region, one would expect illicit unions to have flourished in this diocese. The low number of unions in the diocese of Urgell is likely a result of the brevity with which the visitations were conducted and the fact that it was not uncommon for the visitor to arrive in the parish to find neither a priest nor parishioners there to question. The high prevalence of concubinage elsewhere points to the general acceptance of informal unions in Catalonia during the fourteenth century, particularly among the lowest social strata of medieval society in this region.

¹¹ Scholars have noted that the aristocracy and poorer people (peasants and serfs) appear less frequently in extant court cases. The following works discuss the social range of litigants: Richard Helmholz, *Marriage Litigation in Medieval England* (Cambridge: Cambridge University Press, 1974), 159–62; P. J. P. Goldberg, “Debate: Fiction in the Archives: The York Cause Papers as a Source for Later Medieval Social History,” *Continuity and Change* 12, no. 3 (1997): 427, 429; Charles Donahue Jr., *Law, Marriage, and Society in the Later Middle Ages: Arguments about Marriage in Five Courts* (Cambridge: Cambridge University Press, 2007), 65–66, 302. The situation is less clear in northern France. Sara McDougall notes that there were a number of tradesmen and clerics in the officiality court cases of Troyes, and Beatrice Gottlieb mentions that the largest number of men and women in the court records were domestic servants (but then speculates that most were peasants). See Sara McDougall, *Bigamy and Christian Identity in Late Medieval Champagne* (Philadelphia: University of Pennsylvania Press, 2012), 52–53; and Beatrice Gottlieb, “The Meaning of Clandestine Marriage,” in *Family and Sexuality in French History*, ed. Robert Wheaton and Tamara K. Hareven (Philadelphia: University of Pennsylvania Press, 1980), 54–55.

¹² Although preplague visitation records exist for the diocese of Tortosa for the years 1314–16, 1330, and 1337, I have focused mostly on the 1314–16 visitations for this study.

Any statistical analysis of visitation records, however, can be problematic. Although the Fourth Lateran Council of 1215 mandated yearly episcopal visitations to parishes, visitations were rarely conducted on an annual basis. Some parishes were visited regularly, and others were visited only once or twice in a fifty-year period. The season, weather conditions, and the difficulty in accessing certain areas often determined the itinerary of the parishes visited. In the most densely populated zones of the diocese of Girona, an episcopal visitor could fit in two or more parishes in one day, and therefore these areas were visited more frequently than the remote mountain and coastal villages that were a challenge to reach. The extant visitations for Catalonia, moreover, permit only a rough estimate of the illicit sexual activities of the laity because visitors were seldom able to cover more than half of the diocese at a time in a given year. The extant documents thus very likely represent an underreporting of illicit sexual behavior. A visitor's diligence in investigating the affairs of a parish also made a difference. Some visitors called on a great number of parishes in one day, resulting in highly abbreviated accounts. For example, the frenzied schedule of the visitor Galceran de Sacosta reveals that he visited anywhere from ten to twenty parishes in a span of three days. Such a timetable exposes not only that there was a less than thorough investigation into parish affairs but also that the visitor was focused on obtaining the procuration fee, an obligation that parishioners resented paying. While visitations were an instrument to discipline and reform the clergy and laity, it is clear that there was a financial incentive for visitors to undertake this process. Indeed, visitors like the canon Galceran de Sacosta diligently collected procuration fees of anywhere between ten and one hundred sous for each visitation, depending on the size and wealth of the parish—a useful source of revenue for ecclesiastical officials.¹³

To fully understand the sexual transgressions reported in visitation records, it is best to tackle the terminology episcopal officials used to describe the sexually illicit activities of the laity. Because the episcopal visitor and his notaries were focused on the small fines that could be gained from clerical incontinence and, more importantly, clerical concubinage, officials viewed the prohibited sexual relationships of the laity in the same light. Officials were more likely to use the category of concubinage than any other label to describe the vast majority of relationships found among the laity. Notaries most often used the phrase *tenet publice concubinam* (he publicly keeps a concubine) to indicate a concubinous relationship. Episcopal officials in Catalonia applied the same definition of concubinage outlined for the clergy to laymen: a man who kept a concubine was one who provided his

¹³ Adam Davis discusses the procuration fee as a significant source of revenue for the archbishopric of Rouen. See *The Holy Bureaucrat: Eudes Rigaud and Religious Reform in Thirteenth-Century Normandy* (Ithaca, NY: Cornell University Press, 2006), 2, 55–56, 63, 102, 149.

woman and children with food, clothing, and a home.¹⁴ Clerical concubinage was a custom entrenched among the clergy in Catalonia, and it is thus not surprising that episcopal authorities defined the long-term, informal unions among the laity by the same criteria. A great effort was also made to determine the marital status of the individuals involved in concubinage in order to differentiate unions between two unmarried individuals, a priest and a single or married woman, and a union where one or both lay people were married to determine the seriousness of the crime.¹⁵ Ecclesiastical officials punished married persons engaged in concubinage more severely than two single individuals cohabiting.

Interestingly, reports of fornication and adultery appear less often in the sources and receive less attention than concubinage. Episcopal notaries for Urgell, Vic, and Girona infrequently used the term *fornicatio* to describe a casual sexual encounter or short-term affair, more often describing these relationships as *peccat carnaliter* (he/she sins carnally) or *habet rem* (he/she has a [sexual] affair).¹⁶ Likewise, these notaries infrequently employed the term *adulterio* in the visitations. When the term *adulterat* was used, it appears to denote a married individual who was engaged in a sexual relationship but remained with his or her spouse, while someone who had left his or her spouse and marital home to form a new union were labeled as engaging in concubinage. It is possible that episcopal officials had a tendency to lump illicit sexual relationships into the category of concubinage. However, it is just as likely that officials were simply less interested in casual sexual relationships and focused their energies more on concubinous unions that threatened marriage or unions that, in the eyes of the church, should be legitimized with the sacrament of marriage. Episcopal officials disciplined the clergy for violating their vow of celibacy and maintaining a woman in concubinage as a “wife” as a necessary measure to curtail the widespread practice of clerical concubinage; at the same time, it served as a source of revenue for the diocese. Prioritizing an extramarital union over simple fornication and adultery (when that union did not involve spousal abandonment) was also in line with the views of medieval canonists, who

¹⁴ The 1229 decree states that “whoever in his own home or in another’s, in his own parish or in another parish, to a woman with which he has sinned and has provided in food, or dress, or in the joining of houses, or also if he sins publicly with anyone in which scandal arises in his own parish, shall be judged as one who keeps a concubine” (Tomas Noguera i Musqueras and Josep M. Pons Guri, “Constitucions sinodals de Girona de la primera compilacio,” *Anales del Instituto de Estudios Gerundenses*, no. 18 [1966–67]: 55).

¹⁵ When dealing with concubinous unions, officials were very attentive to the marital status of the couples involved. Notaries were diligent in noting various types of relationships: the single man (*solutus*) who kept a single woman (*soluta*) in his home as his concubine, the married man (*uxoratus*) who had a wife but also kept a concubine (*concubina*), the married man or woman (*maritata/conjugata*) who had left his or her spouse to form a new union, and the cleric who kept a single or married woman as his concubine.

¹⁶ Only the visitation records from the diocese of Barcelona use the term *fornicatio* with any frequency, but the terms *tenet concubinam* and *adulterat* were also commonly used.

believed that protecting the indissolubility of marriage was of utmost importance to ensure that the laity respected the sacrament of marriage. However, concubinage as an alternative to marriage was so widely practiced among the lower levels of society that despite the efforts of Catalan church officials to encourage these couples to formalize their unions, the practice persisted. To demonstrate the extent to which concubinous unions were a custom entrenched among the Catalan laity, I will show that concubinage in Catalonia was practiced at a much higher rate than in northern Europe.

THE PRACTICE OF CONCUBINAGE IN CATALONIA AND EUROPE

Assessing the practice of concubinage throughout Europe in the late medieval period is a difficult task because the sources that speak to the sexual behaviors of the laity vary widely and do not exist uniformly in all regions. Two factors make it impossible to compare the sexual transgressions of the laity using visitation records from across Europe: there are too few extant visitation records for the fourteenth century, and the few scholars who have studied the late medieval visitation records of the fourteenth and fifteenth centuries have not thought to examine them for the sexual practices of the laity. This means that I can only make limited comparisons with visitation records from other regions and must rely more heavily on studies of court cases to draw any significant conclusions. To provide the best comparison possible, I have mined studies that focus on sexual offenses for any indication of the practice of concubinous unions. A further challenge arises from the fact that ecclesiastical and secular courts across Europe did not always label and prosecute sexual crimes and improprieties in the same manner. For example, people involved in a concubinous union in England were frequently charged with fornication or adultery and not under the offense of concubinage. Nevertheless, I have relied on evidence of an enduring relationship such as financial support, co-residence, expressions of marital affection, and children as signs of a concubinous couple.

It will become clear that far more couples were involved in concubinous unions in Catalonia than is revealed in studies on the sexual morality of the laity in England and on the Continent. My own analysis of published visitation records for the last decade of the thirteenth century in the diocese of Canterbury finds that only four couples in fifty-two parishes were reported as being engaged in a concubinous relationship.¹⁷ Church court records from the parish of Tarvin in 1317 show that out of the 118 individuals

¹⁷ I used C. Eveleigh Woodruff's transcription of these visitation records and counted a relationship as one of concubinage when the episcopal official described the man as "keeping a woman for a long time." I did not count relationships that were recorded simply as "X man fornicates with X woman." An analysis of this visitation to parishes in Canterbury revealed ten charges of adultery, six charges of fornication, and four instances where it was noted that a man kept a woman. See Woodruff, "Some Early Visitation Rolls Preserved at Canterbury," *Archaeologia Cantiana* 32 (1917): 143–80.

charged with sexual misconduct, only 5 laymen were accused of keeping a woman as a concubine.¹⁸ These small numbers suggest that concubinage was practiced far less commonly in England than in Catalonia. This finding is confirmed in Sandra Lee Parker and L. R. Poos's study of the archdeacon's court in the diocese of Rochester. In a one-year period, from 1363 to 1364, Parker and Poos note that only in five out of forty-eight cases is it clear that a man was fined for committing fornication with a woman he kept for an extended period of time.¹⁹ Another study of Rochester's consistory court that covered the year 1347–48 found that out of the fifty-four couples accused of fornication, only six couples were charged with habitual fornication and were thus likely engaged in concubinage.²⁰ Incidents of concubinage are higher, however, in the 1397 episcopal visitation records for the diocese of Hereford, near the Welsh border, where 147 couples in 260 parishes were engaged in a concubinous union.²¹ Regional differences in accepted sexual behaviors of the laity are likely: Hereford was a small and remote diocese comprised mostly of villages and hamlets in southwest England,²² while Tarvin was located very near the town of Chester, and Canterbury and Rochester were significant medieval towns in close proximity to London.

Concubinage was more common in France. Andrew Finch's study of the sexual crimes brought before the officiality court of Cerisy in the diocese of Bayeux shows that although couples were generally prosecuted for

¹⁸ I used Nigel J. Tringham's published transcription of the court records for my analysis of concubinary relationships. Individuals were accused not specifically of fornication or concubinage but of sexual defamation. The parish of Tarvin was comprised of twelve villages, which accounts for the large number of individuals charged with a sexual crime. See Tringham, "The Parochial Visitation of Tarvin (Cheshire) in 1317," *Northern History* 38, no. 2 (2001): 197–220.

¹⁹ Sandra Lee Parker and L. R. Poos looked at the sexual offenses brought to the Rochester consistory court, which only prosecuted seventy-five cases, forty-eight for fornication and seventeen for adultery. See Parker and Poos, "Notes and Documents: A Consistory Court from the Diocese of Rochester, 1363–4," *English Historical Review* 106, no. 420 (1991): 652–65.

²⁰ Finch, "Sexual Morality and Canon Law," 261–75. Finch also notes that ten couples were charged with fornication but claims that they had formed contracts of marriage (i.e., clandestine marriage). Lindsay Bryan's study of this court in 1347 and 1348 does not mention any cases dealing with concubinage. See Bryan, "Marriage and Morals in the Fourteenth Century: The Evidence of Bishop Hamo's Register," *English Historical Review* 121, no. 491 (2006): 467–86.

²¹ The number of concubinary unions among the laity in the diocese of Hereford are reported in a footnote in Janelle Werner's essay "Promiscuous Priests and Vicarage Children: Clerical Sexuality and Masculinity in Late Medieval England," in *Negotiating Clerical Identities: Priests, Monks and Masculinity in the Middle Ages*, ed. Jennifer D. Thibodeaux (New York: Palgrave Macmillan, 2010), 179. Werner does not indicate if the episcopal notary used the term "concubinage," but it is clear that she determined these relationships to be concubinous.

²² William J. Dohar, *The Black Death and Pastoral Leadership: The Diocese of Hereford in the Fourteenth Century* (Philadelphia: University of Pennsylvania Press, 1995), 13–15.

fornication or adultery, not concubinage, the evidence presented in court reveals that the incidence of concubinous unions was still higher than in England. Out of 315 individuals charged with fornication between 1314 and 1346, Finch identifies 116 instances where a union seems to have been stable and lasted for a year or more in a thirty-two-year period.²³ In the French diocese of Troyes, during a fifty-year period from 1420 to 1470, the bishop's court prosecuted the laity for 336 sexual offenses. Of these, 189 cases included an allegation of concubinage, although these couples were not prosecuted specifically for this offense.²⁴ Ruth Karras's study of church court records from London and Paris during a twenty-year period (1483–1503) notes that 96 cases recorded in the Paris court were labeled concubinage, in contrast to the courts in London, where English common law took precedence over Roman law, meaning that neither the offense of concubinage nor the special status of concubines was recognized.²⁵ Overall, it is clear that ecclesiastical courts across Europe did use different terminology to designate certain sex offenses and that regional courts had different perspectives on which sexual crimes they should target. It could well be that couples in England and France were not prosecuted specifically for concubinage, because the practice was not widespread and then produced little concern from the authorities. These studies also suggest that informal unions found less acceptance in the general population in England than in France, a conclusion that Karras also draws from her study of the London and Paris church courts.²⁶ It is most pertinent to my findings, however, that these comparisons to other regions reveal that the rates of concubinage in Catalonia far exceeded those seen elsewhere in late medieval Europe (see table 1).

²³ Andrew J. Finch's study of the officiality court of Cerisy also includes cases from the years 1370 to 1486, but I have focused on his analysis from the first half of the fourteenth century to draw a comparison with my own findings. It is interesting, however, that after 1346, the sex cases brought before the archdeacon's court dropped significantly. Only fifty-nine cases of fornication and thirty-seven cases of adultery were prosecuted from 1370 to 1486. See Finch, "The Disciplining of the Laity in Late Medieval Normandy," *French History* 10, no. 2 (1996): 163–81. See also Finch, "Sexual Relations and Marriage in Later Medieval Normandy," *Journal of Ecclesiastical History* 47, no. 2 (1996): 247, 248.

²⁴ Sara McDougall, "The Prosecution of Sex in Late Medieval Troyes," in *Sexuality in the Middle Ages and Early Modern Times*, ed. Albrecht Classen (Berlin: Walter de Gruyter, 2008), 691–713. McDougall counted 859 sexual offenses recorded in the court's register. The majority of the offenses, 523 out of 859, involved clergymen. Out of the 189 cases that mention concubinage, McDougall does not indicate how many involved laymen versus clergymen. She notes that out of the 486 women charged with a sexual offense, the majority (270) were married women, while 122 were widows, and only 94 were unmarried.

²⁵ Karras, "The Regulation of Sexuality," 1023–24. The number of cases dealing with concubinage in the officiality court of Paris was confirmed with the author via email on August 12, 2015.

²⁶ *Ibid.*, 1023–25.

Author: Please verify that the data in the table is aligned correctly. The typesetter moved the 2nd and 3rd columns down a row starting with the row "Catalonia" because it seemed these dioceses went below, but "Fifteen-year period" doesn't seem to be the total of the years above it.

TABLE 1. REPORTS OF CONCUBINAGE IN
ENGLAND, FRANCE, AND CATALONIA

Region	Reported cases of concubinage	Number of years
Canterbury	4 charges	One-year period (ca. 1290)
Tarvin	5 charges	One-year period (1317)
Court of Cerisy, diocese of Bayeaux	116 charges	Thirty-two-year period (1314–46)
Diocese of Rochester	5 cases	One-year period (1363–64)
Diocese of Hereford	147 charges	One-year period (1397)
Diocese of Troyes	189 accusations	Fifty-year period (1420–70)
Officiality Court of Paris	96 cases	Twenty-year period (1483–1503)
<i>Catalonia</i>		
Diocese of Barcelona	136 charges	1303
Diocese of Urgell	185 charges	1312–16
Diocese of Tortosa	135 charges	1314–15
Diocese of Girona	38 charges	1321
Diocese of Vic	397 charges	1330–39
	Total: 891	Fifteen-year period

When compared to both England and France, the 891 charges of concubinage registered in visitation records for a fifteen-year period indicate that the sexual mores of the lay people in Catalonia were more accepting of concubinous unions. Concubinage was also common in other areas of Spain, particularly among wealthy men and lower-status women in the kingdom of Castile, where contracts of concubinage, known as *cartas de amancebamiento*, *cartas de compañía de mesa y cama*, or *unión de barraganía*, were not unusual.²⁷ In addition, it was well known that the kings of the Crown of Aragon had

²⁷ Eukene Lacarra Lanz, “Changing Boundaries of Licit and Illicit Unions: Concubinage and Prostitution,” in *Marriage and Sexuality in Medieval and Early Modern Europe*, ed. Eukene Lacarra Lanz (New York: Routledge, 2002), 158–94; Ricardo Córdoba de la

a tradition of keeping their concubines at court. Pere the Ceremonious, who ruled for fifty years during the fourteenth century, even married his concubine Sibil·la de Fortià after he had survived three wives. The Crown's nobility also used concubinage as a strategy to provide heirs and as an alternative form of companionship to marriages that had been forged for political reasons.²⁸ Concubinage, therefore, was quietly accepted at the highest levels of society and among the patriciate. Furthermore, it would have been awkward for the Catalan church to embark on a zealous campaign to stamp out concubinage without stepping on the toes of the king, nobility, and middling levels of society. The widespread practice of nonmarital sex and informal unions can similarly be found among peasants and shepherds in the neighboring region of the French Pyrenees documented in Le Roy Ladurie's book *Montaillou*, and it was also common in the western Mediterranean in towns like Venice, Bologna, and Verona and in the more rural areas of Italy.²⁹ One is forced to surmise that the culture of the western Mediterranean was more tolerant of concubinous unions, which is why the practice was embedded in Iberian, southern French, and Italian society.

Llave, "A una mesa y una cama: Barraganía y amancebamiento a fines de la edad media," in *Saber y vivir: Mujer, antigüedad y medievo*, ed. Maria Isabel Calero Secall and Rosa Francia Somalo (Málaga: Universidad de Málaga, 1996), 127–54; María Teresa López Beltrán, "Familia y relaciones extraconyugales en los documentos de aplicación del Derecho en la Andalucía bajomedieval," *Revista de Historia del Derecho* 1 (1999): 17–46; Agustín Rubio Semper, "La normativa sexual en Castilla en tiempos de Alfonso X," *Celtiberia* 85–86 (1993): 247–60; Francisco Vázquez García, "De la sentina al colegio: La justificación de las mancebías entre los períodos medieval y moderno," *Mélanges de la Casa de Velázquez* 33, no. 1 (2003): 149–84.

²⁸ See Cynthia L. Chamberlin, "The 'Sainted Queen' and the 'Sin of Berenguela': Teresa Gil de Viduare and Berenguela Alfonso in the Documents of the Crown of Aragon, 1225–1272," in *Iberia and the Mediterranean World of the Middle Ages: Studies in Honor of Robert I. Burns*, ed. Larry J. Simon (Leiden: Brill, 1995), 303–21. For the king Pere the Ceremonious (r. 1337–87), see Núria Silleras-Fernández, "Money Isn't Everything: Concubinage, Class, and the Rise and Fall of Sibil·la de Fortià, Queen of Aragon (1377–87)," in *Women, Wealth, and Power in Medieval Europe*, ed. Theresa Earenfight (New York: Palgrave, 2010), 67–88. For the concubines of Jaume I of Aragon, see Robert I. Burns, "The Spiritual Life of James the Conqueror King of Arago-Catalonia, 1208–1276: Portrait and Self-Portrait," *Catholic Historical Review* 62, no. 1 (1976): 1–35. See also Flocel Sabaté, "Evolució i expressió de la sexualitat medieval," *Anuario de Estudios Medievales* 23 (1993): 163–96.

²⁹ Emmanuel Le Roy Ladurie, *Montaillou: The Promised Land of Error*, trans. Barbara Bray (New York: Vintage Books, 1979), 139–78. Statistical studies on concubinage and informal unions do not exist for Italy, but Guido Ruggiero and Carol Lansing have observed that concubinage was common in Venice and Bologna and was not targeted by civic or ecclesiastical officials. See Ruggiero, *The Boundaries of Eros: Sex Crime and Sexuality in Renaissance Venice* (New York: Oxford University Press, 1985), 153; and Lansing, "Concubines, Lovers, and Prostitutes: Infamy and Female Identity in Medieval Bologna," in *Beyond Florence: The Contours of Medieval and Early Modern Italy*, ed. Paula Findlen, Michelle M. Fontaine, and Duane J. Osheim (Stanford, CA: Stanford University Press, 2003), 85–100. Emlyn Eisenach writes that "concubinage had a long history of acceptance on the Italian peninsula that only began to wane at the end of the sixteenth century" (*Husbands, Wives, and Concubines*, 136–37).

My intent here, however, is to do more than just report on a distinctive practice in Catalonia and the Mediterranean. In the above-mentioned study of the regulation of sexuality in London and Paris church courts, Karras argues that demographic patterns, life-cycle service, and differences in marriage customs and enforcement mechanisms must be considered in any explanation of regional variations of sexual and marital behavior across Europe. This cannot be overstated. It has become clear that we cannot generalize about the sex and marriage practices of medieval people across Europe. Thinking more broadly about how social, economic, religious, legal, and administrative structures can explain the particularities we find does more to explain these differences and deepens our understanding of why certain practices were more prevalent in a given regional context. I will therefore turn now to a focus on the social mores, economic situation, and episcopal administration structures in Catalonia that help to explain what made concubinage such a popular option for both women and men: it allowed more freedom and flexibility before committing to a binding marriage.

Catalan visitation records demonstrate that the majority of individuals accused of engaging in concubinage, 59 percent (530), were single, while 41 percent (361) were couples where one or both were already married and thus committing adultery.³⁰ While it is surprising that so many married couples used concubinage as an alternative to bigamy or an unhappy marriage, the percentage of single couples reveals that concubinage was also a popular alternative to marriage. The acceptance of concubinage can be seen in the village of Vilagrassa, where eight single men were reported as keeping local women as their concubines in 1332, or in small mountain parishes like Castellbò, where six couples, including seven married individuals, lived in concubinous unions in 1312.³¹ We also get a sense of this widespread practice through the fact that in the sixty-eight parishes visited by the bishop of Barcelona in 1303, half of them (thirty-five) contained one or more concubinary couples.³² In the diocese of Vic, from 1330 to 1332,

³⁰ The breakdown for single people engaged in a concubinous union rather than one of marriage in the three dioceses are 85 in Barcelona, 21 in Girona, 103 in Tortosa, 249 in Vic, and 72 in Urgell, for a total of 530. A total of 361 couples who were involved in a union where one or both individuals in a concubinous union were married was derived from 51 in Barcelona, 17 in Girona, 32 in Tortosa, 148 in Vic, and 113 in Urgell.

³¹ AEV, Visites, no. 1200/3, 11r (1332); Arxiu Capitular de Vic (ACV), Visites, Calaix 31/43, no. 1, 32r (1312).

³² This number is based on my own statistical analysis of the 1303 published visitation records for the diocese of Barcelona. The number of couples accused of concubinage in the following parishes is worth noting: fourteen in Sant Boi de Llobregat; thirteen in Vilafranca de Penedès; twelve in Molins de Rei; seven in Sant Martí de Penedès; six in Santa Maria de Pi, Santa Margarida, and Mâger; five in Sant Quintí de Mediona, Morrecurt and Sant Climent. See Josep Maria Martí Bonet, "Las visitas pastorales y los 'communes' del primer año del pontificado del obispo de Barcelona, Ponç de Gualba (1303)," *Anthologica Annua* 28–29 (1981–82): 581–825.

twenty-two villages reported housing four or more concubinous unions. Fourteen villages reported three concubinous couples in their midst.³³ A large village like Castellón in the diocese of Tortosa had seventeen unmarried couples, and two married men kept concubines—more concubinary couples than smaller towns like Manresa and Cervera, where numbers ranged from six to eight couples.³⁴ Although these numbers are based on a visitation to only one of the parish churches in these large towns, it seems likely that the custom of concubinage flourished more in rural settings than in urban centers, where couples were more likely to be detected by ecclesiastical officials.

It was not unusual for parishes to have more than one couple involved in an informal union, indicating that parishioners were accustomed to living with unmarried couples in their midst. The evidence shows, moreover, that many of these informal unions were not passing fancies but stable relationships. In the village of Catí, more than seventy kilometers from the cathedral city of Tortosa in the foothills of the mountains of Tinença de Benifassà, the layman Bernat de Montalt had publicly kept Maria as his concubine for more than twenty years. In the village of Granollers de la Plana, situated on the plain of Vic and surrounded by mountains, two couples had spent the past thirty years together and had numerous children between them. One of the couples in Granollers, specifically the man Martí Puigrodon, had expelled his wife from his home to create a new union with Maria, a union that spanned three decades and produced four living children. Parishioners in Granollers were also accustomed to the fact that a monk from a nearby monastery kept his three children with Elisenda de Correla in the village and to the knowledge that two priests carried on more casual relationships with local women.³⁵ Concubinage in Catalonia was thus common for both

³³ Excluding the towns of Cervera and Manresa, the villages with four or more reported concubinous couples include the following: Santa Maria de Llosses, Sant Pere de Torelló, Santa Maria de Folgaroles, Santa Maria de Manlleu, Santa Maria de Moià, Sant Cristòfol de Queralt, Fonollosa, Sant Mateu de Boixadors, Santa Maria de Vilatorra, Santa Maria d'Olost, Perafita, Santa Maria d'Oló, Santa Maria de Gaià, Sant Miquel de Serra-sanç, Monistrol de Montserrat, Mura, Sant Hipòlit de Voltregà, Santa Maria de Moià, Fals, Santa Maria Prats del Rei, Santa Maria de Vilagrassa, and Santa Maria de Llosses. The following villages reported three concubinous couples: Santa Maria de Besora, Sant Quirze de Besora, Verdú, Santa Coloma de Queralt, Sant Pere de Rellinars, Montbuí, Castellnou d'Arcs, Sant Vicenç de Prats, Sant Joan d'Oló, Sant Quirze de Muntanyola, Anglesola, Sant Quirze de Besora, Sant Pere de Pla, Castellcir, and Sant Esteve de Granollers. The lists include both single and married concubinous couples. See AEV, Visites, no. 1200/1 (1330); Visites, no. 1200/2 (1330–32); Visites, no. 1200/3 (1332).

³⁴ García, *La visita pastoral*, 122–23.

³⁵ For the couple in Granollers de la Plana, see AEV, Visites, no. 1200/1, 26v (1330). The rector had previously had an affair with a married woman in the village, but she eventually returned to her husband. The vicar is described as “carnally knowing” a young woman from the farmstead Oliver, but witnesses testified that “he does not keep her in his own home,” which likely explains why they did not classify the relationship as one of concubinage. For the couple in Catí, see García, *La visita pastoral*, 122–23.

single and married people, for both the secular and the regular clergy, and parishioner testimonies about these relationships have a matter-of-fact tone with little explicit approval or censure. It is likely that parishioners were tolerant of these unions precisely because they mimicked marriage in their stability, exclusivity (i.e., monogamy), and reproduction of the gender norms of having a male partner as the head of the household.

CONCUBINAGE AS AN INFORMAL MARRIAGE

Single, unmarried couples who were involved in concubinous relationships can be divided into two main categories: those engaged in a long-term union who had not formalized their relationship, and those couples who appear to have been on their way to marriage. In the diocese of Vic, 22 percent (or 55 of the 249 single couples) are described as having children, but this percentage is not likely to be accurate, since visitors were not always diligent about recording the existence of children. Nevertheless, reports of offspring (like the three children of Pere and Moneta or the two children of Guillem and Maria in the parish of Santa Maria de Besora) indicate that these were marriage-like unions.³⁶ Cohabitation, sexual exclusivity, marital affection, relative stability, and financial support are characteristics that defined these concubinous relationships in the minds of the laity and church officials.³⁷ In this respect, the views of the people were in sync with the views of the twelfth-century jurist Gratian and subsequent canonists, who treated concubinage as a secondary type of marriage where cohabitation with marital affection existed but where the public exchange of present consent was absent.³⁸ That these unions resembled marriage and were considered to be similar by parishioners is demonstrated by a case in the village of Almenara, where three single local men were described as keeping their women publicly and “treating them as wives.”³⁹ Such statements reveal the performative nature of marriage, since these couples lived like married people; they shared a residence and the management of property.⁴⁰ Parishioners rarely used terms like “whore” and “common woman” in reference to these relationships, demonstrating that they thought of them as similar to marriage.

³⁶ AEV, Visites, no. 1200/1, 7v (1330).

³⁷ In her study of marriage in late medieval Valencia, Dana Wessell Lightfoot has emphasized that the laity perceived cohabitation to be a marker of marriage. See *Women, Dowries, and Agency: Marriage in Fifteenth-Century Valencia* (Manchester: Manchester University Press, 2013), 34–35.

³⁸ James Brundage, “Concubinage and Marriage in Medieval Canon Law,” in *Sexual Practices & the Medieval Church*, ed. Vern L. Bullough and James Brundage (Amherst, MA: Prometheus Books, 1982), 122–23.

³⁹ García, *La visita pastoral*, 235.

⁴⁰ This contrasts with the relationships in medieval England described by Cordelia Beattie, “‘Living as a Single Person’: Marital Status, Performance and the Law in Late Medieval England,” *Women’s History Review* 17, no. 3 (2008): 334.

Moreover, parishioners distinguished between promiscuous women, both prostitutes and those who engaged in sexual relationships without the promise of being “maintained,” and concubines, whom they regarded as spouses. The marital qualities of a concubinous relationship accorded these women a level of respectability because they acted and were treated as wives and were expected to show wifely fidelity to their partners. The incredibly low number of men who engaged in two concubinous relationships at the same time underscores the expectation that concubinage was a form of marriage in its requirement of exclusivity, economic dependence, and habitual cohabitation. The couples involved in these relationships understood that although they were not legally married, their cohabitation was not marked as indecent. Given the high number of concubinous unions, it would be a mistake to dismiss them as the consequence of rebellious youngsters who had gone against the wishes of their parents to form an informal union. In some cases, we have evidence of parental approval. In 1303 Guillem Mardina and Ferrara, for example, obtained the permission of Guillem’s father before Guillem brought Ferrara as his concubine into his father’s home.⁴¹ A great number of Catalan peasant families lived in multi-generational homes and worked the family’s manse (farmstead) together.⁴² It therefore seems likely that the family would have been prepared to accept, if not welcome, the labor contribution that a young woman could bring to the domestic economy of the farmstead, even if that young woman was a concubine.

Visitation records also reveal that an important distinction between a marriage and a concubinous union was the payment of a dowry.⁴³ Couples may have avoided solemnizing their union until parents followed through on the terms established in the dowry contract. Such was the case with Pere de Darnau, who did not want to marry his *desponsata* (betrothed) at the door of the parish church until he received the cash promised as part of her dowry.⁴⁴ Given the inextricable ties between marriage and socioeconomic status, it is not surprising that many of the couples who engaged in informal unions were those least likely to be able to afford to contract a marriage. The first half of the fourteenth century ushered in a time of bad weather, and poor harvests in Catalonia and a great famine in 1333 severely affected the

⁴¹ Martí, “Las visitas pastorales,” 708.

⁴² Víctor Fariás Zurita, *El mas i la vila a la Catalunya medieval: Els fonaments d’una societat senyorialitzada, segles XI–XIV* (Valencia: Universitat de València, 2009), 155–56, 166.

⁴³ Ruth Mazo Karras has made the same argument in “Marriage, Concubinage, and the Law,” in *Law and the Illicit in Medieval Europe*, ed. Ruth Mazo Karras, Joel Kaye, and E. Ann Matter (Philadelphia: University of Pennsylvania Press, 2008), 117–29, at 119.

⁴⁴ AEV, Visites, 1200/2, 53r (1331). In another example, the rector Pere Guidon donated a dowry amount to the impoverished Bonanata Moner because Arnau, her intended, whom she had already contracted marriage with in the present tense, refused to receive the nuptial blessing unless Bonanata provided a dowry. See Olot, Arxiu Comarcal de la Garrotxa (ACG), Notarials, Besalú, no. 3, 82v (1316).

population and economy even prior to the arrival of the Black Death.⁴⁵ The weak economy and the toll of declining agriculture production most harshly affected the lowest levels of society and must have diminished the financial resources of couples wishing to contract a marriage. Ramon Guardia and Raimunda, his domestic partner of twenty-two years, must have fallen into this category. The couple had a long, stable relationship and had produced two children who grew to adulthood. By all appearances, they seem to have considered themselves married. Ramon had spent many years under the ban of excommunication because he had refused to leave Raimunda, suggesting that it was not the possibility of moving on to another relationship that kept the couple from marrying but rather a lack of financial means to contract a marriage or pay for a wedding celebration.⁴⁶

The economic downturn of the fourteenth century and the years of severe famine that began in the year 1331 likely resulted in many more couples maintaining a concubinous union or a semimarrried state. For example, in a 1331 visit to the parish of Balsereny, the episcopal visitor found that Nicolau and Guillema lived as husband and wife, but their union had not been solemnized. Eight years later, in 1339, the couple continued as before and still had not received a nuptial blessing at the parish church.⁴⁷ Economic circumstances most certainly prevented many of these couples from seeking formal recognition of their union, even though it is clear that these cohabiting couples treated each other as husband and wife. Given the calamitous state of the economy, families may have delayed handing over a daughter's dowry or no longer had the dowry they had initially promised, which in Catalonia was usually in the form of cash and not property. Amassing a cash dowry was likely an insurmountable challenge.⁴⁸ Since it was also customary for the groom to provide a counter-gift, called the *escreix*, both sides of the family were expected to contribute a substantial donation to the marriage.⁴⁹

⁴⁵ J. N. Hillgarth, *The Spanish Kingdoms, 1250–1516* (Oxford: Clarendon Press, 1976), 72, 237–39.

⁴⁶ Martí, “Las visitas pastorales,” 659. For the importance that lower-status couples placed on the wedding banquet, see Lightfoot, *Women, Dowries and Agency*, 34.

⁴⁷ AEV, Visites, 1200/2, 69v (1331); AEV, Visites, 1200/3, 59r (1339).

⁴⁸ In fourteenth-century Girona, women's dowries from the working class could range from one hundred to six hundred sous, while affluent families paid out between two thousand and three thousand sous. For the city of Girona and its surrounding villages, a number of marriage contracts can be found in the *Catàleg de pergamins del fons de l'Ajuntament de Girona (1144–1862)*, vol. 1 (Barcelona: Arxiu Municipal de Girona, 2005).

⁴⁹ An astounding number of matrimonial contracts can be found in the Arxiu Històric de Girona that date from the thirteenth to the fourteenth century. I have looked at marriage contracts that specify the dowry and *escreix* in the following registers: Arxiu Històric de Girona (AHG), Notarials, Pe, no. 14 (1318); Notarials, Pe, no. 1,044 (1333); Notarials, To, no. 566 (1333–38). A good number of these contracts in Peralada and Torroella de Montgrí represent the well-to-do among the small town of Peralada and the large coastal village of Torroella de Montgrí. For the city of Girona and its surrounding villages, a number of transcribed marriage contracts can be found in the *Catàleg de pergamins*. See also Marie A. Kelleher, *The Measure of Woman: Law and Female Identity in the Crown*

In 58 percent of the marriage contracts in the region of Sant Cugat del Vallès, parents gave their daughters dowries ranging from five hundred to a thousand sous, and grooms provided a counter-gift that amounted to half the dowry. According to Víctor Farías Zurita, these are impressive sums, considering that an ox needed to farm the land cost fifteen sous during this period.⁵⁰ In situations where both parties could afford neither the dowry nor the counter-gift, the choice to remain in an informal union is not surprising. Even where couples of modest means bypassed the traditional dowry and *escreix* and entered into *agermanament* contracts (where the husband and wife-to-be combined any financial resources they held into a joint fund), both parties still had to bring a substantial amount of cash or property to the marriage.⁵¹ Poor peasant families that could not provide for all of their children on the marriage market knew that concubinage had to be an option for one or more of their progeny. Additional expenses arose from the fact that parish priests often charged their parishioners for a nuptial blessing or for approval to marry outside of the parish.⁵² In some cases, young women wishing to marry had to pay a fee to the seigneurial lord to gain permission to leave the lord's jurisdiction; virgins paid a tariff

of Aragon (Philadelphia: University of Pennsylvania Press, 2010), 49–53; Jesús Lalinde Abadía, “Los pactos matrimoniales catalanes,” *Anuario de historia del derecho español* 33 (1963): 133–266.

⁵⁰ Farías Zurita, *El mas i la vila*, 164–65.

⁵¹ The *agermanament*, also known as the *germanía* contract, was in essence a community-of-goods marital property regime in which couples pooled their assets, equally benefited (in theory) from any gains made during the marriage, and received half of the communal property when a spouse died. Conversely, dowry contracts specified what each couple brought to the marriage so that the amount and type of property and cash could be restored to the bride or her family or, in case of death, would devolve to her heirs and not remain under the husband's control. Couples who entered into *germanía* contracts tended to be of low status and of little means. In her study of marriage in fifteenth-century Valencia, Dana Wessell Lightfoot has found that a period of economic crisis in the Valencia region prompted more couples to enter into community-of-goods marriage contracts. This marital strategy coincides with a shift in household structures in which families chose to return to multifamily households to ensure their economic survival. See Wessell Lightfoot, *Women, Dowries, and Agency*, 97, 100–105. In Catalonia, Jaume Codina's study of marriage contracts has found that more couples in the fifteenth century than the fourteenth century used the *agermanament de béns*. He notes only five in his study of the Llobregat region for the fourteenth century, and all of them from 1348 and after. See *Contractes de matrimoni al delta del Llobregat, segles XVI a XIX* (Barcelona: Fundació Noguera, 1997), 56–58. Since I focus on the period before the plague in 1348, it is possible that the *agermanament de béns* was not yet a strategy that many in Catalonia thought to employ. So far, my limited study of marital contracts in the AHG prior to 1348 has not located one *agermanament de béns* contract.

⁵² Villagers belonging to the parishes of Santa Maria del Mar and Calders complained that their parish priest charged for the nuptial blessing. In the parish of Celma and the parish of Cubelles, parishioners told the visitor that many chose to get married in another parish because the priest refused to perform the blessing without a donation. See Martí, “Las visitas pastorales,” 665, 689, 697, 702. Baucells also notes two examples of priests who received sixty sous for the nuptial mass—a high sum, to be sure, when some women only had one hundred sous for their dowries. See *Vivir en la edad media*, 1:687–89, 729–32.

of two sous and eight denars, while “corrupted peasant women” paid a higher tariff determined by the lord.⁵³ In other words, marriage could be an expensive endeavor for the peasantry, and fellow parishioners were likely to have been sympathetic to couples who were unable to contract a legitimate marriage. Marital affection, commitment, and children likely kept these couples together, despite the lack of formal sanction.

CONCUBINAGE AS A PATH TO MARRIAGE

While poverty certainly partially explains the high rates of concubinous union during a century of economic upheaval, I would like to offer an additional explanation. Couples may have chosen to explore the viability of their relationship before committing to marriage. Take, for example, Pere Martí and Guillem Pedrolo, who were described by witnesses in the visitation records as having kept concubines whom they promised to marry. During the bishop’s investigation of the parish of Maials, Guillem Pedrolo conceded that he had kept Dolça, but he reported that they were now betrothed (*desponsavit*), and he stated that he was prepared to solemnize their union at the church to formalize their marriage. Likewise, Pere Martí claimed that he was already betrothed to Domenga and insisted that “he keeps and maintains her as a wife, and treats her just as a wife” (*habet et tenet eam pro uxore et ipsam tractat tamquam uxorem*). He too promised to sanctify their union at the church door.⁵⁴ Pere and Guillem had kept Dolça and Domenga as their concubines and had at some point become betrothed to them, but they had lingered in a semiofficial state that stopped short of completely formalizing their union until the bishop forced their hand with the threat of a fifty-sous fine. Although both men eventually married their concubines, it is very possible that these couples chose to live on the “margins of marriage” so that if they chose to, they could terminate their relationship more easily because they had not formalized their union publicly at the church.⁵⁵ Such a condition allowed them more freedom to change their minds.

For these two couples in Maials, transforming their concubinous union into a formal marriage may have been the intended path, but other couples seem to have chosen to remain in a semimarrried state, most likely because it provided them with an opening to more easily dissolve their union in the

⁵³ Tomàs Mieres, *Costums de Girona*, trans. and ed. Antoni Cobos Fajardo (Girona: Curbet Comunicació Gràfica, 2001), 132. See also Paul Freedman, *The Origins of Peasant Servitude in Medieval Catalonia* (New York: Cambridge University Press, 1991), 48, 132–33.

⁵⁴ García, *La visita pastoral*, 172.

⁵⁵ Cordelia Beattie uses the term “the margins of marriage” when discussing individuals who were married but who lived as single people. I use it here to describe couples who were not fully married in line with the highest standards of their society, which was marked by the exchange of the dowry and counter-gift, as well as the nuptial blessing at the church performed before the community. See Beattie, “Living as a Single Person,” 328.

future.⁵⁶ Consider the example of Bernat Arayo, who had “betrothed Na Dionisa as a wife” (*sponsavit Na Dionisa in uxore*) but who “did not wish to lead her to the face of the church as his wife.”⁵⁷ The layman Bernat was content to treat his domestic partner as his “wife” but was nevertheless reluctant to enter into a formal marriage that would require significant expense and complicated legal finagling to terminate because of the church’s insistence on the indissolubility of marriage. To be sure, pinpointing the motivations of couples who chose to endure in a concubinous-betrothed state is impossible to fully flesh out. However, the fact that so many couples persisted in this informal marital state suggests that these people found some advantage in preserving this indeterminate state.

That so many couples promised to solemnize their union suggests that they knew that this was what the episcopal visitor wanted to hear and that the laity understood that a ceremony was necessary to legitimize a marriage in the eyes of the church. The church insisted that marriage involved a man and a woman solemnizing their marriage before the door of the church, where the couple exchanged present consent in front of a priest and witnesses, followed by the mass and nuptial blessing inside the church. However, none of the things—the priest, the solemnization, the nuptial blessing, the reading of the banns, the witnesses, or even the sexual consummation of the union—was needed to complete a marriage according to canon law; only the exchange of present consent was required to create a valid union.⁵⁸ Although church officials in Catalonia infrequently used the term “clandestine marriage” to describe concubinous relationships in the visitation records, according to church law, a clandestine marriage was one where present consent had taken place without witnesses, the announcement of the banns, or the solemnization.⁵⁹ Persuading the laity to follow

⁵⁶ In his study of marriage formation, Michael M. Sheehan notes a similar situation in Ely, where many men and women did not go through the solemnization process in order to avoid the church’s control of marriage through the solemnization of the union. See “The Formation and Stability of Marriage in Fourteenth-Century England: Evidence of an Ely Register,” in *Marriage, Family, and Law in Medieval Europe*, ed. James K. Farge (Toronto: University of Toronto Press, 1996), 54.

⁵⁷ See the record of the visitation to the parish of Molins de Rei in the diocese of Barcelona in Martí, “Las visitas pastorales,” 662. In another example, the parishioners in the village of Calonge reported that Bernat de Guanis had kept his *desponsata* in his home for “a long time” and treated her “as a wife,” but he had not “led her to the face of the church.” A similar situation in the parish of Sant Joan de Avinyó is reported between Bernat de Solerioturich and his *sponsa*. See AEV, Visites, 1200/2, 52v (1331); AEV, Visites, 1200/2, 67v (1331). In the diocese of Tortosa, the episcopal visitor noted three men in the village of Gandesa who were betrothed to women they kept as concubines. See Tortosa, Arxiu Capítular de Tortosa (ACT), Visites fragmentaris, 3r, 4r (ca. 1300).

⁵⁸ Brundage, *Law, Sex, and Christian Society*, 436, 440–41.

⁵⁹ Catalan episcopal officials typically reserved the term “clandestine marriage” for marriages undertaken when one of the parties was excommunicated or that took place before a priest but without witnesses. See Santiago Bueno Salinas, *El derecho canónico catalán en la baja Edad Media: La diócesis de Gerona en los siglos XIII y XIV* (Barcelona: Facultat de

the church's version of marriage formation was a constant problem for the medieval church, since the parties involved in a secretly contracted marriage could contest in court whether consent had been exchanged. Enforcing a marriage in the courts, however, required time and money, which is why the very poor are often absent in these court records.⁶⁰ Clandestine marriages certainly violated church law, but if both parties were in agreement about a trial run of marriage (i.e., concubinage) before making it official with a nuptial blessing, then these couples had more time to feel secure in their choice of a marriage partner. Given the porous definitional boundaries between a concubine, a betrothed woman, and a clandestine wife, it was difficult for ecclesiastical officials to determine what they were dealing with, an ambiguity that the laity exploited to their benefit. Couples purposefully chose to linger in an ambiguous state between a concubinous union / clandestine marriage and a canonically approved marriage in order to take more time before deciding to commit. Couples continued to live with one another in a state of betrothal or more or less marriage for quite some time because they believed there were degrees of marriage they could enter into. The laity was bypassing the church's model of marriage formation to fashion a process that allowed them more flexibility before pledging themselves to a binding marriage. I turn now to an evaluation of how the practices of marriage formation at the lowest levels of Catalan society differed from the church's expectations.

COMPETING VIEWS OF MARRIAGE FORMATION

The testimonies of the men accused of concubinage and their witnesses reveal that relationships frequently started out in a state of concubinage and then transitioned to a stage where the parties involved considered themselves to be married or almost married. In these accounts, the verb form of *desponsare* is used to signal that the relationship had progressed from one of concubinage to a more formal union. The use of the Latin word *desponsare*, meaning "betrothal" or "to promise in marriage," in the context above likely points to a practice at this stage of the relationship where the woman's family had offered a dowry and the groom-to-be had made some promise of a gift to the woman and her family. However, the word *desponsare* is not always used consistently in the records, and at times it is clear that it meant something beyond betrothal. Indeed, *desponsare* could in fact mean that couples were canonically married in the eyes of

Teología de Catalunya, 2000), 251. However, Josep Baucells also notes in his study of Barcelona's visitation records that the term "clandestine marriage" was rarely used. See *Vivir en la edad media*, 1:694. Donahue addresses the "troublesome term" of clandestine marriage in *Law, Marriage, and Society*, 4–5.

⁶⁰ Brundage, *Law, Sex, and Christian Society*, 361–63, 497–99; Shannon McSheffrey, *Marriage, Sex, and Civic Culture in Late Medieval London* (Philadelphia: University of Pennsylvania Press, 2006), 110–11.

ecclesiastical officials because the exchange of present consent had taken place. When the bishop of Tortosa arrived in the town of Castelló in 1314, he facilitated the marriages of two couples. The first couple, Joan de Belsa and Maria, was found to be living in concubinage. Thus, the bishop ordered Joan to dismiss Maria or marry her. Joan agreed to the marriage (Maria's consent is not recorded, but it is implied), and the ceremony was performed in the presence of three witnesses and is described as "*desponsavit illos ad invicem per verba de presenti*" (he promised in marriage those who in turn exchanged words of present consent). The ceremony between Guillem and Na Castellona, who had lived together for twelve years and produced three children, is described in the exact same manner: "*desponsavit illos ad invicem per verba de presenti.*"⁶¹ Further proof that the term *desponsare* could mean more than simply a betrothal is found in a visitation to the parish of Muntanya in the diocese of Urgell. When the visitor discovered that two couples in the village were "betrothed" (*sunt desponsati*) and had consummated their relationship, he ordered them to solemnize their "marriage" at the church or suffer excommunication. Even though the couple was identified as "betrothed," the bishop appears to have considered them to be married, since he did not order them to exchange present consent, presumably because the exchange of words had already taken place; instead, he insisted that the union be properly recognized.⁶² The actions of episcopal officials in Urgell and the bishop of Tortosa show that they used the word *desponsare* to describe unions that were marriages according to canon law but that they still expected couples to solemnize their marriage at the parish church for the union to achieve full recognition.

In her study of marital litigation in fifteenth-century London, Shannon McSheffrey has found that urban couples often contracted marriage at the betrothal state using the present rather than the future tense of consent ("I take you" versus "I will take you" to be my wife/husband). She believes the use of the present tense in the initial contract of marriage indicates that fifteenth-century Londoners were "willing to trade away the social usefulness of the waiting period between future and present consent for another kind of security, a more tightly binding contract of marriage."⁶³ Similarly, Beatrice Gottlieb has found that in fifteenth-century northern France, betrothed couples were "under a very strong obligation to each other" because the

⁶¹ García, *La visita pastoral*, 223. During the visitation, Joan de Belsa was ordered to dismiss his concubine, Maria, or marry her, and Joan answered that he was prepared to marry Maria.

⁶² ACV, Calaix, 31/43, Visites, no. 1, 34r (1312). Donahue has shown that in the York and Paris ecclesiastical courts, the exchange of future consent followed by sexual intercourse "created a presumption that the parties had consented" and thus were considered married. I have been unable to find studies on marriage litigation in Catalonia and therefore cannot determine if the Catalan church courts treated future consent followed by sexual intercourse in the same manner. See Donahue, *Law, Marriage, and Society*, 17, 112–16, 345–46.

⁶³ McSheffrey, *Marriage, Sex, and Civic Culture*, 30. Sheehan makes a similar observation in "The Formation and Stability," 55.

betrothal was part of an “ordinarily irreversible process.”⁶⁴ This view of the betrothal had not yet solidified in fourteenth-century Catalonia. Members of the laity seem to have perceived the “desponsati per verba de presenti” to be a lesser form of marriage that allowed them a certain amount of leeway to walk away from the relationship and form a new union. Couples could cohabit in a state of betrothal that even included the exchange of words in the present tense, but they did not always consider themselves to be fully married. For example, in the village of Pedrinyà, Beatriu had contracted marriage with Guillem Mayoll in the present tense, and they lived together for a number of months before she left the union to contract a marriage with Guillem Ferrer.⁶⁵ Marie Kelleher’s study of women and the law in the Crown of Aragon also cites a fourteenth-century case where a father refused to honor the marriage of his daughter, who had exchanged present consent before the solemnization of the marriage had taken place.⁶⁶ The difference between fifteenth-century Londoners and fourteenth-century Catalans may have been the pressure to commit to marriage once the exchange of present consent had taken place. McSheffrey notes that Londoners expected couples to ratify their betrothals publicly by announcing the banns and solemnizing the marriage. Without these acts the marriage had a liminal status that made the union less respectable.⁶⁷ In London, moreover, couples did not cohabit until after the solemnization had taken place. Catalan rural culture permitted some nonmarital sex and allowed unmarried couples to cohabit for an extended period of time before formalizing their union. Londoners and Catalans were thus using the practice of the exchange of present consent differently; unlike Londoners, Catalans did not see it as creating a binding contract. For many among the laity in Catalonia, publicly acknowledging a marriage at the parish church door with the accompanying priestly solemnization legitimized a union as a marriage. Anything prior to a public solemnization was treated as a stage where either person could back out of the union.

⁶⁴ Gottlieb, “The Meaning of Clandestine Marriage,” 70.

⁶⁵ Arxiu Diocesà de Girona (ADG), Visites, no. 2, 5r-v (1315).

⁶⁶ Although such an act would have been considered bigamy according to canon law, the laity did not always see it that way, and ecclesiastical officials did not treat it as bigamy. See Kelleher, *The Measure of Woman*, 126–27. In addition, the father claimed that the union had never been consummated and thus was invalid. Such a claim suggests that couples who started out living together in a domestic partnership had parental approval to initiate a union that could lead to marriage, and might also indicate the social status of the woman’s family, since she had not cohabited with the groom prior to the exchange of consent. María del Carmen García Herrero discusses a similar case for fifteenth-century Zaragoza in which parents believed that they could marry their daughter to another man after she had exchanged present consent and consummated the union but had not solemnized their union at the church. See García, “Matrimonio y libertad en la Baja Edad Media aragonesa,” *Aragón en la Edad Media* 12 (1995): 278, 267–86.

⁶⁷ McSheffrey, *Marriage, Sex, and Civic Culture*, 30.

Social mores among the lower classes in Catalonia clearly allowed for couples to live together before contracting marriage.⁶⁸ In a study of thirty-nine parishes in the diocese of Barcelona from 1303 to 1344, Josep Baucells i Reig found ninety-eight cases of clandestine marriage noted in episcopal records, suggesting that a significant number of couples chose to forgo the public and formal recognition of their union.⁶⁹ Although both the customs of the church and lay culture in the late Middle Ages worked in tandem to define the solemnization of the marriage as a way to create both a valid and socially recognized marriage, the widespread practice of concubinage and extended periods of betrothal reveal that many among the laity in Catalonia preferred informal marriages that were less binding than full marriage. For example, in the parish of Sant Miquel de Colera it was known that at one time Arnau Roger had been betrothed (*desponsavit*) to Cilia, a woman from another parish, but that recently he had *desponsavit* Sibil·la, the mother of his children, whom he treated publicly “as a wife.”⁷⁰ Whether Arnau had become betrothed to Cilia while he carried on a relationship with Sibil·la is not known, but it appears that Arnau used the betrothed state to his advantage. With Cilia it appears to have been nothing more than a betrothal that could be easily broken, but with Sibil·la it meant formalizing a relationship with a woman he had been with long enough to have several children. While Gottlieb’s point that marriage in the late medieval period was a long and elaborate process that took place over an extended period of time seems apt in describing concubinous unions that transitioned to marriage, there is a contrast between practices of betrothal in fifteenth-century southern Burgundy and London, where it was considered an irrevocable step, and the more flexible interpretation of this promise in fourteenth-century Catalonia.

There are a number of reasons why couples would have decided to skip the nuptial blessing and formal recognition of their marriage. Aside from a lack of financial means, others may have been hindered by excommunication, preventing one or both parties from receiving a nuptial blessing. In the village of Avinyó, parishioners claimed that Guillem de Torrents had not “led his *sponsa* Guillemma to the face of the church” because he had been excommunicated for nearly a year. This lack of blessing had “displeased” Guillemma, but not enough to end the relationship.⁷¹ Other couples simply seemed unready to “seal the deal” by moving from concubinage or betrothal

⁶⁸ This view of premarital sex and sexual activity between committed partners is also seen in seventeenth-century Galicia. See Allyson Poska, “When Love Goes Wrong: Getting Out of Marriage in Seventeenth-Century Spain,” *Journal of Social History* 29, no. 4 (1996): 872–74.

⁶⁹ Baucells, *Vivir en la edad media*, 1:694–95.

⁷⁰ ADG, Visites, no. 3, 13r–v (1321): “That Arnau Roger, staying in the parish of Colera, is betrothed to a certain woman by the name of Cilia, daughter of Pere Mateu, in the parish of Santa Creu de Rodes, and now he is betrothed to another woman by the name of Sibil·la, daughter of Guillem Arnau, whom he keeps publicly as his wife and from whom he has children.”

⁷¹ AEV, Visites, 1200/2, 67v (1331).

to marriage. The bishop of Tortosa ordered the single man Bonanat de Dyago to marry his concubine, but he “refused to consent” to the marriage and instead chose to pay a fine of ten sous.⁷² Guillem Garsia kept the mother of his children, whom he had betrothed, in his home, but reportedly “did not want to solemnize the marriage.” Guillem’s reluctance to take the final step with his betrothed might have been related to his relationship with Clara, a woman whom he publicly kept as his concubine.⁷³ That Guillem was holding off legitimizing his union with the mother of his children might be an indication that he wanted to pursue his relationship with Clara further; either way, Guillem was leaving his options open because he had not formalized his union with either woman publicly at the church. Very few men described in the visitation records, however, are reported to have financially supported more than one woman at a time, most likely because they did not have the means to support two families. Serial monogamy was also far more socially acceptable than a man who as head of the household risked ruining his reputation with sexual indiscretions.⁷⁴ Men, however, were not the only ones to change their minds about advancing to the next stage of a relationship. Parishioners in Sant Joan de las Abadesses commented that although Oliver Català had kept his betrothed, Berengaria, for some time, she had left Oliver to publicly marry Ramon Rourbel at the church.⁷⁵ These examples make it clear that people did not perceive the betrothal as being fully married, and they made use of the ability to terminate undesirable unions.

It is noteworthy that a number of the women in these visitation records did not enter into their marriages as virgins and had more than one sex partner in their lifetime, highlighting that virginity among peasant women was not as highly prized as among elite women. The argument that virginity and sexual honor determined a woman’s worth and marriageability in medieval society has dominated scholarly discourse. Studies on women and marriage have focused almost exclusively on women from aristocratic and patrician backgrounds and have presented the views of medieval churchmen as those of “medieval society.” Such a reliance on ecclesiastical and secular laws, as well as on sermons, saints’ lives, and religious treatises that aimed to both police and influence the sexual conduct of medieval people, has obscured the fact that medieval people’s views of acceptable and unacceptable sexual behavior for both men and women varied according to social status. Indeed, Allyson Poska has shown that peasant women in Galicia had a preference for concubinous unions, since it was believed that “it was bet-

⁷² García, *La visita pastoral*, 222.

⁷³ *Ibid.*, 175.

⁷⁴ Shannon McSheffrey, “Men and Masculinity in Late Medieval London Civic Culture: Governance, Patriarchy, and Reputation,” in *Conflicting Identities: Men in the Middle Ages*, ed. Jacqueline Murray (New York: Garland Publishing, 1999), 243–78.

⁷⁵ AEV, Visites, 1200/3, 19v (1332).

ter to be a concubine than badly married.”⁷⁶ The large number of Catalan peasant women who moved in and out of informal unions and had multiple sex partners in a lifetime suggests more flexible standards of sexual honor for women in the peasant society of Catalonia. Serial monogamy seems to have been the key for women to maintain their respectability. As Dana Wessell Lightfoot has argued, immigrant and laboring-status women in fifteenth-century Valencia exercised a remarkable level of agency and independence from their families in choosing their marital partners; therefore, it is likely that peasant and village women were also strategic in their decision to enter into an informal union.⁷⁷ Moreover, Flocel Sabaté’s findings that 25 percent of women killed in Catalonia were victims of their husbands, in addition to the 15 percent of cases brought before secular courts that dealt with marital abuse, show that marriage could be a dangerous endeavor for women if they chose the wrong spouse.⁷⁸ It is entirely possible that some women were influenced to forgo marriage knowing very well that secular and church authorities would make it incredibly hard to escape an abusive spouse or that women recognized it was more prudent to live with a potential spouse in a concubinous union before committing to marriage.

EPISCOPAL ATTEMPTS TO IMPOSE LEGITIMATE MARRIAGE

Conciliar and synodal regulation shows greater concern over clandestine marriage than concubinage, which was largely ignored in provincial and diocesan legislation despite the attention that episcopal visitors paid to it. Conciliar decrees passed for the ecclesiastical province of Tarragona during the medieval period do not address concubinage among the laity, but they do make clear that Christians who contracted clandestine marriages or who married within the prohibited degrees of consanguinity should be excommunicated.⁷⁹ This legislation also gave bishops the authority to determine the punishments for the gravest of sins: homicide, rape, incest, adultery, and

⁷⁶ Allyson M. Poska, *Women and Authority in Early Modern Spain: The Peasants of Galicia* (Oxford: Oxford University Press, 2005), 79–81.

⁷⁷ Wessell Lightfoot, *Women, Dowries, and Agency*, 45–47; Dana Wessell Lightfoot, “The Projects of Marriage: Spousal-Choice, Dowries, and Domestic Service in Early Fifteenth-Century Valencia,” *Viator* 40, no. 1 (2009): 333–53.

⁷⁸ Flocel Sabaté, “Femmes et violence dans la Catalogne du XIV^e siècle,” *Annales du Midi: Revue de la France Méridionale* 207 (1994): 277–316, at 304; Sabaté, “Evolució i expressió,” 173. See also María del Carmen García Herrero, “La marital corrección: Un tipo de violencia aceptado en la Baja Edad Media,” *Clio & Crimen* 5 (2008): 39–71.

⁷⁹ According to Federico R. Aznar Gil, by the fifteenth and sixteenth centuries, synodal and provincial legislation in Spain mandated hefty pecuniary fines in addition to the punishment of excommunication, but prior to the fifteenth century the punishment for clandestine marriage remained largely limited to excommunication. See “Penas y sanciones contra los matrimonios clandestinos en la península Ibérica durante la baja edad media,” *Revista de Estudios Histórico-Jurídicos* 25 (2003): 189–214.

same-sex activity.⁸⁰ Although concubinage is not mentioned specifically, it appears that each bishop determined the punishment for these illicit unions in his own diocese. A 1247 statute from the diocese of Girona ordered that those who sinned publicly should not be tolerated; priests must be vigilant and diligently warn these sinners to marry their women, and if they failed to heed the three warnings to legitimize their union, the couple should be excommunicated.⁸¹ Episcopal officials also used the threat of fines to persuade the laity to marry or terminate the relationship. While I did not find a consistent policy of fining transgressors for fornication, concubinage, and adultery across all the visitation records, it is clear that episcopal officials in Barcelona, Girona, and Tortosa attempted to coerce concubinous and clandestinely married couples with the threat of excommunication in the hope that they would eventually formalize their union.⁸² In Girona, the bishop granted licenses to priests to absolve couples of the sentence of excommunication for their clandestine marriage and to impose fines instead, expecting that a portion of the penitential fine would be remitted to an episcopal official for the new building projects taking place in the cathedral.⁸³ However, the punishment of excommunication may not have been much of a deterrent, since some couples persisted under this form of punishment for many years rather than end their illicit unions.⁸⁴

In the diocese of Tortosa, the bishop assigned fines of ten to sixty sous for single people engaged in concubinage and one hundred or two hundred sous if caught again. For married people, the fines were more severe if they stayed in the concubinous union and refused to return to their spouse. The application of fines for concubinage, moreover, was very much gendered. In the majority of cases only the man was fined, while the woman received no punishment or a smaller fine. For example, in a 1314 visitation to the parish of Gandesia, three couples were charged with concubinage. Two of these men were fined fifty sous, while the third received a thirty-sous fine. None of the women were penalized with a fine, though one woman was threatened with a fine of twenty sous if found again with her partner.⁸⁵ What is more, the bishop and his officials must have considered the financial situation of the guilty parties when assigning fines, because the range of fines for first

⁸⁰ Josep M. Pons Guri, "Constitucions conciliars Tarraconenses (1229–1330)," *Analecta Sacra Tarraconensia: Revista de Ciències Historicoeclesiàstiques* 47, no. 1 (1974): 19; Salinas, *El derecho canónico catalán*, 220, 222.

⁸¹ Noguera and Pons Guri, "Constitucions sinodals," 57.

⁸² Baucells, *Vivir en la edad media*, 1:695–99.

⁸³ ADG, Lletres, no. 2, 74v (1326); ADG, Lletres, no. 6, 112v (1343); ADG, Lletres, no. 7, 24r (1340); ADG, Lletres, no. 7, 162r–v (1344); ADG, Lletres, no. 11, 1r (1347). This was also the case in Barcelona, where rectors received license to absolve their parishioners for clandestine marriages. Baucells notes that in the town of Vilafranca, pecuniary fines for clandestine marriage were used for building projects involving parish churches. See *Vivir en la edad media*, 1:698.

⁸⁴ ADG, Visites, no. 3, 39r–v (1321).

⁸⁵ García, *La visita pastoral*, 184–85.

offenders and recidivists varied widely. Consider the case of Joan Oliver and Gerdal, a couple who had been found to be in a concubinous union in a prior visitation in 1314. After the bishop found that the couple persisted in their relationship, he fined Joan twenty sous under penalty of one hundred sous if he was again found in a "suspect place" with Gerdal. No mention is made of Gerdal's punishment.⁸⁶ It is likely, then, that Joan had simply received a warning or a smaller fine than twenty sous when the couple was first discovered. Either way, Joan's second charge resulted in a smaller fine than the three men punished in Gandesia, and in the four abovementioned cases, not one woman was penalized, and only one was threatened with a fine. This gendered bias in the application of fines for concubinage is not seen in the officiality court in Troyes during the fifteenth century, nor is it mentioned in other studies.⁸⁷ It thus remains to be seen if the treatment of concubines in Catalonia was exceptional. It is clear, however, that officials here refrained from assigning publicly humiliating punishments like the pillory or whippings around the church, which were more common forms of punishment for sex offenses in England and France.⁸⁸ In the absence of severe punishment, we can surmise that enjoying some autonomy in an informal relationship and paying a fine was preferable to entering into a binding marriage to a large number of Catalans.

Given that men were punished more often and more harshly for concubinage, why were women treated so leniently? That episcopal officials punished men and excused women indicates that authorities found men to be more culpable in the formation and persistence of a concubinous union. This is certainly surprising, considering that adultery in the Crown of Aragon was generally defined as female: it meant an unfaithful wife who had dishonored her husband and called into question his ability to govern a household as a *paterfamilias* by introducing the possibility of illegitimate children inheriting family property.⁸⁹ Yet I believe that men were blamed

⁸⁶ Ibid., 162.

⁸⁷ McDougall, "The Prosecution of Sex," 707–11.

⁸⁸ In the ecclesiastical province of Tarragona, according to Santiago Bueno Salinas, the practice of imposing publicly humiliating punishments by church officials was in decline in the thirteenth century and was no longer included in the provincial statutes as a form of punishment in the fourteenth century. Humiliating forms of public penance, however, appear to be common in northern Europe. See Salinas, *El derecho canónico*, 219–20; Finch, "Sexual Relations," 245; Nigel J. Tringham, "The Parochial Visitation of Tarvin (Cheshire) in 1317," *Northern History* 38, no. 2 (2001): 197–220; Eveliegh Woodruff, "Some Early Visitation Rolls Preserved at Canterbury," *Archaeologia Cantiana* 32 (1917): 144; Antonia Gransden, "Some Late Thirteenth-Century Records of an Ecclesiastical Court in the Archdeaconry of Sudbury," *Bulletin of the Institute of Historical Research* 32 (1959): 62–69; F. S. Pearson, "Records of a Ruridecanal Court of 1300," in *Collectanea*, ed. S. G. Hamilton (London: Worcestershire Historical Society, 1912), 69–80.

⁸⁹ Kelleher, *The Measure of Woman*, 84–85. Recently, Sara McDougall has argued that in France and northern Europe during the fifteenth century medieval courts targeted men and not women for the crime of adultery. McDougall's findings may not apply to Spain, since Kelleher finds that "adultery appears in the law codes of the Crown of Aragon not only a

for establishing a concubinous union and hindering its progression to marriage because they were viewed as initiators: they were expected to initiate sexual relationships and to initiate the formation of a marriage.⁹⁰ Men were expected to take the active role in contracting a respectable union with a woman. Even Girona's synodal statute recognized the obligation of men involved in an illicit union to lead their women into marriage.⁹¹ Moreover, the work of Marie Kelleher and Sara McDougall has shown that medieval jurists and ecclesiastical officials treated women as naturally weak, incapable of making good decisions, and in need of protection. McDougall's argument that society could be more forgiving of women who committed bigamy because they had been seeking "a family, home, and male headship" can be applied to women in concubinous unions.⁹² Episcopal authorities viewed women as the weaker sex (*fragilitas*), and they were more sympathetic to single women who sought to put themselves under the authority and governance of a man in the hopes that the relationship would one day be legitimized. Women, moreover, may have actually taken advantage of this attitude, knowing that they would not be held responsible for engaging in an informal union.

CONCLUSION

The practice of concubinage was a custom embraced by the peasantry and lower working class in predominantly rural areas in fourteenth-century Catalonia, and it did not hinder men or women from forming a subsequent marriage. The range of sexual activities that both men and women engaged in outside of marriage shows that peasants had a view of nonmarital sex and informal marriage that was different from that of church authorities, who considered sex outside of marriage sinful. My intent has been to show that the Catalan laity often engaged in concubinous unions before marriage and to underscore that the laity did not adhere to church definitions of what constituted a marriage. Many sought unions that were respectable but still open to future termination. Visitation records demonstrate the existence of

sex-specific offense but as a gender-specific one as well, in which 'greater chastity is required of a woman than a man'" ("The Opposite of the Double Standard: Gender, Marriage, and Adultery Prosecution in Late Medieval France," *Journal of the History of Sexuality* 23, no. 2 [2014]: 206–25).

⁹⁰ McSheffrey also finds that women were expected to be passive in the courting process and in initiating marriage. She further notes that women who played the active role in initiating a proposal of marriage were perceived to be in desperate straits and were generally unsuccessful in getting the man to marry them. See *Marriage, Sex, and Civic Culture*, 49–50. See also Christine Peters, "Gender, Sacrament, and Ritual: The Making and Meaning of Marriage in Late Medieval and Early Modern England," *Past & Present* 169 (2000): 87.

⁹¹ "quod ducant ipsas mulieres in uxores" (Noguer and Pons Guri, "Constituciones sinodales," 57).

⁹² McDougall, *Bigamy and Christian Identity*, 73–74; Kelleher, *The Measure of Woman*, 24–29, 110.

varying degrees of marriage, ranging from the more flexible and nonbinding relationships, such as concubinage and betrothed couples cohabiting, to a more binding union that was formed with the solemnization at the church. To be betrothed represented a state somewhere between a future promise of marriage and a canonically recognized marriage with the exchange of present consent. Yet it was the nuptial blessing before the community at the parish church that made the marriage official and binding in the eyes of the Catalan laity. While canon law determined that the exchange of present consent constituted a legitimately valid marriage, the laity did not view this as the crucial and binding step. Catalonia's peasants and villagers believed that it was the actual handing over of the dowry from the women's family to the husband, as well as the public solemnization of the marriage, that confirmed the union as an official marriage. The poor harvests and famine that triggered the economic crisis in the first half of the fourteenth century in Catalonia likely prevented many couples from contracting a marriage, since financial constraints made the exchange of a dowry and the groom's counter-gift, the public celebration and solemnization of the union, and paying the priest for the nuptial blessing prohibitive. A number of couples remained in a cohabiting betrothed state where financial resources limited their transition to a fully legitimate marriage.

In late medieval Catalonia, informal unions were not only tolerated but accepted as long-term relationships that mimicked marriage and could potentially result in the married state. Concubinous unions and cohabiting betrothed couples sought alternatives to marriage that allowed couples to test a relationship before committing to the next level. Episcopal officials were aware that many among the laity were opting to enter into concubinous unions and clandestine marriages that were not formalized properly, which is why visitation records noted these relationships and episcopal visitors coerced couples to marry with the threat of fines and excommunication. Church authorities, however, generally only punished men with fines, not women, revealing their conviction that it was men's duty to lead these women to a proper marriage.

Although it is true that sexually promiscuous behavior negatively affected the reputations of both men and women, albeit in different ways and with more life-altering consequences for women, serial monogamy in the form of a concubinous union offered both men and women of the lower classes some significant advantages. It offered more opportunities to make decisions about their sexual relationships and marriage than their counterparts in the nobility and middling ranks of urban society. The high rates of concubinage in Catalonia, moreover, suggest that single women at the lowest levels of society may have viewed concubinage and betrothed unions as a viable alternative to marriage, since they allowed them to leave the union if it became economically insecure or unhappy. The flexibility in these informal marriages thus gave women more freedom to choose a

domestic partner. Consider the example of Elisenda Botela, who is identified as both the concubine of the single man Guillem Bas and the betrothed of Ramon Moner. It is unclear in the record if Elisenda had left her betrothed, Ramon, to form a concubinous union with Guillem Bas or if, while living with Guillem as his concubine, she had become betrothed to Ramon.⁹³ The former seems more likely, but such an example underscores Elisenda's agency in selecting a partner and a union of her own choosing, especially given the leniency of episcopal officials in these matters. Furthermore, such an example highlights that women who limited their sexual activity within a marriage-like union could still move on to another union without being labeled a "whore" or falling into a life of prostitution. That even the concubines of priests in Catalonia were able to find marriage partners after their relationships ended shows that participating in a concubinous relationship was not an automatic marker of disreputability and did not prevent women from finding spouses.⁹⁴ It is clear that villagers in Catalonia were more tolerant of women's sexual activities if they were limited to serial monogamy. Yet scholars of premodern history have rarely considered the possibility that these women may have sought or even preferred an informal union to marriage. If we view the women who entered into informal marriages as part of a larger pattern of women's sexual experiences as they moved in and out of temporary relationships and marriage-like unions, then we begin to see that women had more options and exerted greater agency in choosing their sexual partners than previously thought.

ABOUT THE AUTHOR

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⁹³ Martí, "Las visitas pastorales," 663.

⁹⁴ Michelle Armstrong-Partida, "Priestly Wives: The Role and Acceptance of Clerics' Concubines in the Parishes of Late Medieval Catalunya," *Speculum* 88, no. 1 (2013): 210–12.